

NRC INSPECTION MANUAL

PIPB

MANUAL CHAPTER 0620

INSPECTION DOCUMENTS AND RECORDS

0620-01 PURPOSE

01.01 To provide policy and guidance for requesting, controlling, and dispositioning NRC inspection documents and records during all phases of the inspection program.

0620-02 DEFINITIONS

02.01 Classified Information. Records that are (1) specifically authorized, under criteria established by an Executive order, to be kept secret in the interest of national defense or foreign policy and (2) are, in fact, properly classified pursuant to such Executive order. These records normally include information, such as in a document or correspondence, that is designated National Security Information, Restricted Data, or Formerly Restricted Data. Such classifications may include, but are not limited to, Top Secret, Secret, and Confidential and are consistent with NRC Management Directive (MD) 12.2, "NRC Classified Information Security Plan."

- a. National Security Information. Information that has been determined pursuant to Executive Order 12958 or any predecessor or successor order to require protection against unauthorized disclosure.
- b. Restricted Data. All data concerning the design, manufacture, or use of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, but does not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.).

02.02 Controlled Document. Any document, correspondence, or information that is in the licensee's or vendor's document control system. These documents are generally required to be retained for specific periods and may include, but are not limited to, programs and procedures required by the technical specifications (TS), such as administrative procedures; alarm, abnormal occurrence and Emergency Operating Procedures; maintenance procedures; procedures required for general plant operation and shutdown of safety-related equipment; emergency plans; security plans; fire protection plans; and controlled licensee or vendor correspondence, drawings, and

pipng and instrumentation diagrams.

02.03 Docket File. For the purposes of this IMC, docket file refers to the files that contain those Agency records or other information related to a specific NRC docket number that provide a complete record of the transactions between the licensee and the NRC whether the information has been made publically available or not.

02.04 Documentary Materials. This is a collective term for records, non-record documents and personal papers that refers to all media containing recorded information regardless of the nature of the media or the methods or circumstances of recording.

02.05 Draft Document. A preliminary written document or a preliminary sketch or drawing. A document is considered to be a draft while it is being developed and reviewed. It ceases to be a draft only when it has been approved by responsible management and issued as a final document for implementation.

02.06 Handwritten Note. An informal method of communicating information to individual members of the licensee or vendor staff during the performance of an inspection (while onsite). Examples include, leaving a note on a licensee staff member's desk indicating the inspector had stopped by to see them, or writing down a procedure (drawing, record, etc.) number to give to a licensee document control clerk to retrieve a specific procedure.

02.07 Inspection. The examination, review, or assessment of any program or activity of a licensee or vendor to determine the effectiveness of the program or activity, to ensure that the health and safety of the public and plant personnel are adequately protected, to ensure that the facility is operated safely, and to determine compliance with any applicable rule, order, regulation, or license condition pursuant to the Atomic Energy Act, Energy Reorganization Act, the National Environmental Policy Act or other statutory requirements. Such examinations, reviews, or assessments include, but are not limited to, routine inspections, regional initiatives; customized, special, and augmented inspection team inspections (AITs).

02.08 Inspection Document. Any material that is obtained or developed in preparation for, during, or resulting from the inspection of a licensee or vendor, and that is considered to be an NRC record.

02.09 Inspection Finding. From IMC 0610, "Inspection Reports," a finding is an observation that has been placed in context and assessed for significance.

02.10 Inspector's Notes. Notes made by individual inspectors for their own use in preparation for, during, or after an inspection, including notes relative to telephone conversations, are considered personal records. Inspector's notes may be stored electronically provided they are not shared with others and located in a distinct subdirectory.

02.11 Licensee. The applicant for, or holder of, an NRC license or construction permit.

02.12 Non-record Documentary Material. Documentary material such as unofficial copies of documents that are kept only for convenience or reference, or reference stocks of publications and processed documents, and library or museum material intended solely for reference or exhibition. Background information is considered non-record documentary material provided it does not form the basis of an inspection find or enforcement action. Handwritten notes between the inspector and a member of the licensee's or vendor's staff that do not ask for a specific licensee response are also considered non-record documentary material.

02.13 NRC Record. Any record obtained or created by the NRC that is required for the conduct of government business. NRC records include any book, paper, map, photograph, brochure, punch card, magnetic tape, sound recording, pamphlet, slide, motion picture, video tapes, or other documentary material, regardless of form or characteristics. An NRC record does not include an object or article such as a structure, furniture, a tangible exhibit or model, a vehicle or a piece of equipment. Case law developed under the Freedom of Information Act (FOIA) defines an agency record as one which is (1) created or obtained by an agency; and (2) under agency control. Final NRC records shall be made available for public review and copying in the NRC Public Document Room (PDR).

02.14 Official Issuance. The final publication and distribution of a document that has been reviewed, concurred on, and signed by all appropriate levels of management.

02.15 Official Records. All books, papers, maps, photographs, machine readable documentary materials regardless of form or physical characteristics created or received by any agency of the United States Government under Federal law or in connection with the transaction of public business and that are preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data contained in these materials.

02.16 Personal Records. Records created by NRC personnel that are not required to be made, have not been circulated, are not commingled with agency records, are not required to be retained by the NRC, or records of a personal nature that are not associated with government business regardless of the form or physical characteristics.

02.17 Proprietary Information. Records that (1) contain trade secrets and commercial or financial information, obtained from a person or entity as privileged or confidential, the disclosure of which would result in substantial harm to the competitive position of the owner as supported by an accompanying affidavit signed and notarized by the owner of the information in accordance with 10 CFR 2.790, (2) contain voluntarily provided information that the submitter would not normally release to the public, or (3) would

harm the government's ability to obtain information in the future.

02.18 Public Document Room (PDR). 10 CFR 2.4 defines the PDR as the place at 2120 L Street, NW., Washington, DC, at which public records of the Commission will ordinarily be made available for inspection. For the purposes of this IMC, PDR includes other places where the NRC maintains pertinent public records of the Commission available for public inspection such as local PDRs near licensee facilities or regional offices. Documents contained in the PDR should be a subset of those records and other information maintained in the docket file.

02.19 Regulatory Requirement. A legally binding obligation, such as a statute, regulation, license condition, technical specification, or order.

02.20 Retained. Information taken into possession by the NRC as an NRC record to support an inspection finding. This information will be kept by the inspector after the inspection report has been issued or forwarded to the PDR as appropriate.

02.21 Safeguards Information. Detailed security measures for the physical protection of a licensed facility or plant in which licensed special nuclear material is possessed or used.

02.22 Uncontrolled Documents. Documents or information that are not in the licensee's or vendor's document control system.

02.23 Vendor. Any supplier of products or services to be used in an NRC- licensed facility or activity. In some cases, the supplier may be an NRC or Agreement State licensee (e.g., nuclear fuel fabricator or radioactive waste broker) or the supplier's product may be required to have an NRC Certificate of Compliance (e.g., certain transport packages such as waste casks or radiography devices).

0620-03 RESPONSIBILITIES

NRC management and staff have the following responsibilities for conducting inspections.

03.01 Executive Director for Operations (EDO). Approves the release of all inspection documents that have not been officially issued, or any information contained therein, except in cases where release authority for significant safety or safeguards issues has been granted to the office directors or regional administrators.

03.02 Office Directors and Regional Administrators

- a. Provide for the establishment of internal procedures in accordance with existing policies, guidance, and regulatory requirements for the acquisition, control, and disposition of documentation (1) used in preparation for inspections, (2) gained during the conduct of inspections, and (3) resulting from inspections.
- b. Obtain EDO approval before releasing a draft inspection document or any information contained therein, and before discussing the document in a way that is contrary to established NRC policies, procedures, and regulatory requirements for exit meetings, inspector discussions with licensees during inspection, etc. When such documents or information are inadvertently released or discussed, the EDO is to be immediately informed about the improper release, the facts concerning the release, and the corrective action to be taken to prevent recurrence.
- c. Take required corrective action when inspection documents are released contrary to NRC policies, procedures, and regulatory and legal requirements.

03.03 Regional and Headquarters Division Directors and Headquarters Branch Chiefs and Project Directors

- a. Ensure that subordinate managers and staff are cognizant of, and adhere to, the policies and guidance in this inspection manual chapter (IMC).
- b. Ensure that subordinate managers and staff implement internal policies and procedures relative to the public availability of NRC inspection-related documentation and information.
- c. Immediately informs the office director or regional administrator when inspection-related material is

inadvertently released to a licensee, vendor, or the public contrary to NRC policies, procedures, and regulatory requirements and report the facts concerning the release.

03.04 Inspector Supervisors

- a. Ensure that their staff is cognizant of, adheres to, and implements the policies and guidance contained in this IMC.
- b. In accordance with this inspection manual chapter and established policies, procedures, and regulatory requirements, provide for reviews, approvals, or denials of all inspection-related documentation before release to a licensee or vendor, NRC File Center, the document control desk, the PDR, or in response to a FOIA request.
- c. As appropriate, immediately inform the respective division, staff, or project director when draft inspection documents are inadvertently released to a licensee, a vendor, or the public, contrary to NRC policies, procedures and regulatory requirements, and report the facts concerning the release.
- d. Before announcing an inspection, if announced, or before the start of onsite inspection, if unannounced, review and approve staff requests for information or documentation to a licensee or vendor necessary to prepare for or conduct the inspection. Approval of the staff requests need not be written, verbal approval is sufficient. Requests for information to a licensee or vendor from resident inspectors and specialist inspectors while onsite do not require prior approval.

03.05 Regional and Headquarters Inspection Staff. Maintain a working knowledge of, and adhere to, the regulatory requirements, policies, and guidance for the acquisition, control, and disposition of inspection-related documentation.

0620-04 POLICY AND GUIDANCE

All Federal agencies are required to establish a records management program to ensure compliance with the regulations issued by the National Records and Archives Administration (NARA) and the General Services Administration (GSA). NRC is required to create and preserve records containing adequate procedures and documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Agency. NRC records are the sole property of the United States Government. NRC records shall not be destroyed except in accordance with the disposition instructions schedules in the current revision to NUREG-0910, "NRC Comprehensive Disposition Schedule." There may be instances where official NRC records are created for which disposition schedules have not yet been created. Under these circumstances, such records are to be retained until disposition schedules are requested, developed and issued. In accordance with Section 2071 of Title 18 of the Code of Federal Regulations, whoever willfully and unlawfully conceals, removes, mutilates, obliterates, destroys, or attempts to do so, or with intent to do so, takes and carries away any official record, proceeding, map, book, paper, document or other thing filed or deposited with any clerk or officer of any court of the United States, or in any public office, or with any judicial or public

officer of the United States shall be fined not more than \$2000 or imprisoned not more than 3 years, or both.

Under the Freedom of Information Act, which applies to all Federal agencies, the NRC is required to make any reasonably described agency record available for inspection and copying. Requirements for the public availability of NRC records may be found in 5 U.S.C. 552 (Freedom of Information Act), 10 CFR 2.790, 10 CFR 9.15 and NRC MD 3.1, "Freedom of Information Act." All NRC records including drafts, in existence on the date that a FOIA is received by the FOIA Office, within the scope of the requested subject matter and not subject to an FOIA exemption, must be surrendered in response to the FOIA request. These records may not be destroyed or removed from the possession and control of the NRC once they have become the subject of a FOIA request. In accordance with NRC MD 3.1, NRC employees who willfully destroy or remove NRC records subject to a FOIA request may be subject to NRC disciplinary sanctions or a finding by a district court of being arbitrary and capricious and thus subject to investigation and sanctions by the Merit Systems Board. A FOIA request does not capture records that have been destroyed or discarded before the receipt of the FOIA request or records that are created after the date of the FOIA request.

When records are requested under the Freedom of Information Act, the NRC FOIA Office date stamps requests as they are received. Submitter documents subject to such requests are generally returned to the licensee or vendor by the FOIA Office with a request for the identification of proprietary, unclassified protected, or classified information. The process to be used by the licensee or vendor to request withholding of identified classified, safeguards, proprietary or other sensitive information, that requires a degree of protection from public disclosure, is described in 10 CFR 2.790. Documents exempt from public disclosure can be found in 10 CFR 2.790 and 9.17. NRC MD 3.4, "Release of Information to the Public," provides policy and guidance for the release of information to the public and lists the types of NRC documents routinely made available to the public. NRC MD 3.50, "Document Management," provides information for submitting the documents identified in NRC MD 3.4 for processing the documents into the Nuclear Document Management System (NUDOCS), the PDR, and local public document rooms (LPDRs).

Not all NRC records are required to be placed in the PDR. Final NRC records and documents are required to be made available for inspection and copying in the NRC PDR in accordance with 10 CFR 2.790(a). Exempted documents and information not released to the public are listed in 10 CFR 2.790(a)(1) through (9) and 10 CFR 9.17 and NRC MD 3.1. See NRC MD 3.53, "NRC Records Management Program" for a detailed discussion of NRC records, non-records, personal papers and basic groups of NRC Files and their management.

04.01 Requesting Information. In preparing for an announced inspection and during the conduct of an inspection, inspectors usually need to communicate with the licensee or vendor to request documentation needed to prepare for the announced inspection, that the inspectors would like to have available upon arrival at the site, or to continue an ongoing inspection (see IMC 0300,

"Announced and Unannounced Inspections"). Such communication may be written or oral. Requests for documents or information needed either to prepare for an inspection or during an inspection, are to be reasonable and should not put an excessive burden on the licensee or vendor. Only documents that are actually needed for the inspection activity are to be requested. Documents that are already NRC records that can be retrieved from NRC files shall not normally be requested. Copies of NRC records may be requested from the licensee during onsite inspection activities provided the records are not available at the resident inspectors office and the time necessary to obtain the records from the regional or headquarters office exceeds the time necessary for the inspector to complete the onsite inspection. Inspectors should not normally request, either orally or in writing, licensee or vendor draft documents or analyses that do not exist in the licensee's or vendor's document control system. Only documents that have gone through the licensee's or vendor's required review and approval process should normally be requested. Manual Chapter 0330, "Guidance for NRC Review of Licensee Draft Documents," provides additional guidance on the use of draft licensee documents during inspection.

For materials inspections, the list of documents and records reviewed shall be included with the inspector's field notes that are retained as the Agency record of the inspection. Materials inspectors should make a reasonable effort to individually list each document or record they review during an inspection. However, it is recognized that this may not always be possible because each document or record may not be uniquely identified by the materials licensee. In those cases where it is difficult to unique identify the information reviewed, the materials inspector may identify the type and quantity of documents or records reviewed. For other inspections, as a minimum a list of all the documents and records reviewed during an inspection shall be made publically available by including it in the inspection report either as an attachment or within the body of the inspection report, or by sending it to the PDR under a separate cover letter.

- a. Questions may be asked and information requested verbally to prepare for an inspection or at any time during an inspection. To minimize the impact on the licensee or vendor, questions that are not essential for the inspection preparation are not to be included in a written request for information.
- b. After requesting input from other inspectors who will participate in an upcoming inspection, the lead inspector or team leader may prepare a list of documents that are needed to prepare for the inspection or that the inspectors would like to have available upon arrival at the site. The lead inspector's or team leader's written list is normally coordinated and discussed with the other inspectors. The lead inspector or team leader can either telephone the licensee or vendor to announce the inspection and request the documents needed to prepare for the forthcoming inspection or formally announce the inspection and request the documents by letter.

1. When the inspection is announced and documents are requested from the licensee or vendor by telephone, the list of requested documents may be read to the licensee or vendor. In those cases where there is a lengthy list of requested documents, or if requested by the licensee, the lead inspector or team leader should forward the list in a letter to the licensee documenting the telephone conversation. In such a case, the letter and the list of requested documents may be attached to the inspection report or sent to the PDR under a separate cover letter with the appropriate reference in the inspection report. If the list is read to the licensee, the list shall be retained in the docket file or the list of reviewed documents should be included in the inspection report. See NRC MD 3.53, "Records Management and NRC Records Management Program."
 2. When the inspection is formally announced by letter and the number of requested documents is small, they may be either requested in the body of the letter or listed in an enclosure to the letter. However, if many licensee or vendor documents are requested, they shall be listed in an enclosure to the letter.
- c. When an inspector sends a fax or E-mail to the licensee requesting documents or information to be used for inspection purposes, the fax or E-mail is considered an NRC inspection record and a copy must be made available to the public by attaching it to the inspection report or forwarding it to the PDR under a separate cover letter with the appropriate reference in the inspection report.
 - d. Some inspections or site visits may require requests for the same information from each of a selected sample of licensees. If the same information is requested from ten or more licensees during a one year period, OMB review and approval is required before such requests are imposed on the licensee.
 - e. Either in preparation for or during the conduct of an inspection, inspectors shall not request that a licensee or vendor generate analyses that are not required by a regulatory requirement. For example, during an inspection, an inspector may find that a component in a safety system, such as a leaky valve or degraded pump seal at a reactor facility, is not operating satisfactorily. Upon identifying the concern to the licensee, the inspector is told that the leaking valve or degraded pump seal will operate satisfactorily until the next outage. It is acceptable for an inspector to request information from the licensee to substantiate that the component or system will satisfactorily operate until the next outage. However, the licensee or vendor does not have to provide such information if there is no regulatory requirement for it. If the inspector concludes that a significant safety or safeguards concern exists, it shall be promptly and clearly communicated to the licensee or vendor for prompt evaluation and corrective action, if appropriate. It should also be communicated to responsible

NRC management as soon as practical. Such matters are normally settled through a formal process such as an order or a 10 CFR 50.54(f) information request. In all cases, if the inspector has a regulatory concern that the licensee does not address, responsible NRC management should be promptly contacted.

04.02 Handwritten Notes. During the performance of an inspection, while onsite, the inspector should use caution when providing handwritten notes to a member of the licensee's or vendor's staff. The following sections outline the extent of acceptable uses by an NRC inspector for handwritten notes:

- a. It is acceptable for an inspector to provide handwritten notes to licensee's document control staff listing a reasonable number of specific licensee documents or records to be retrieved from storage. This handwritten list should be based on the inspector's prior knowledge of the specific documents or records (by licensee reference numbers) necessary for the inspector to followup an issue or complete an ongoing inspection activity. The handwritten list shall not take the place of a request for information from a licensee to support preparation for an inspection. Inspectors should inform licensee management that they may be requesting documents from the licensee's document control staff in this manner and solicit licensee management feedback on the impact this will have on the licensee's resources. When the licensee uses a form to request controlled documents from their storage facility or document control clerks, the inspector may fill out this form following the licensee's procedures. In this case the licensee's form is part of the licensee's internal procedure control process, and is not considered an NRC record.
- b. It is acceptable for an inspector to leave a brief handwritten note on the desk of or at the work station of a licensee or vendor employee that indicated the inspector had stopped by while the employee was out of their office. This handwritten note should be limited to the inspector's name, the date and time of the visit, a brief description of the topic to be discussed, and information related to how and/or when the inspector would like to be contacted in the future. The handwritten note shall not request the employee to provide a response to a specific question. The handwritten note shall not take the place of a request for information from a licensee to support preparation for an inspection. The intent of this paragraph is to provide the inspector with a mechanism to increase the efficiency of the inspection process through improved communication to employees of licensees or vendors.

04.03 Obtaining Documents. Once an inspection has been announced, licensee or vendor documents needed for inspection purposes can be obtained in a variety of ways. Documents obtained to provide background information for inspection preparation are not required to be placed in the PDR, however, while in NRC possession the background documents are subject to FOIA requests. Documents or

excerpts of documents retained by an NRC inspector that are necessary to substantiate an inspection finding are considered final NRC records and shall be placed in the PDR, either under a separate cover letter with the appropriate reference in the inspection report or as an attachment to the inspection report. If a licensee or vendor asserts that any of the documents or document excerpts to be retained by an inspector as an NRC record contain proprietary or classified information, an application for withholding pursuant to 10 CFR 2.790(b)(1) with the required affidavit shall be requested from the licensee before any of the documents are removed from the site. Acceptable practices for obtaining licensee or vendor documents for routine inspection activities are listed below.

- a. The licensee or vendor can be requested to send the documents to the regional office or NRC headquarters addressed to the inspector. When addressed to the inspector, the requested documents are considered background information and should be treated accordingly. If the package containing the documents are not addressed to the inspector, the documents will go through the normal document control process that includes putting them in the docket file, Nuclear Documents System (NUDOCS) and the PDR, and may delay the receipt of the documents by the inspector. When requesting the documents, the inspector should advise the licensee to submit an application for withholding pursuant to 10 CFR 2.790(b)(1) with an accompanying affidavit if the licensee or vendor asserts that any of the documents contain proprietary information.
- b. Send a designated inspector, participating in the scheduled inspection, to the site to obtain the needed documents from the licensee or vendor and obtain the 10 CFR 2.790 affidavit, if applicable.
- c. Request that the licensee or vendor retrieve the needed documents and have them readily available when the inspectors arrive at the site.
- d. Request that the resident inspectors' office staff retrieve the needed documents from the licensee or vendor and hold them until the inspectors either arrive at the site or retrieve them for use at the regional or headquarters office. This option is the least preferred and should only be used in special cases.

04.04 Licensee Forms. Some licensees and vendors supply inspectors with forms, during routine inspections, to ask written questions or to request information and documents that are needed to continue the inspection. The forms have spaces for the inspectors to sign or identify themselves. Similar written forms are also generated by licensees and vendors to give inspectors written interim and final answers to inspectors' questions. The information on these forms is then entered into the licensee's or vendor's computer system, along with any written responses from the licensee or vendor, and tracked. If the licensee determines that the responses on these forms are controlled documents, the guidance

in section 04.04 "Controlled Documents," of this manual chapter also applies except as noted below. Inspectors should not fill out such forms and submit them to the licensee or vendor. Such forms completed by the inspector, including the licensee response on the form, are considered written correspondence between the NRC and the licensee and, by definition, are NRC records.

Written answers by licensee or vendor personnel in response to verbal questions by an inspector on a licensee form that are retained by the inspector, after leaving the site, as the basis of an inspection finding are also NRC records subject to public disclosure. The inspector shall notify the licensee that the retained form will be considered an NRC record subject to public disclosure and provide them the opportunity to request withholding the information pursuant to the requirements of 10 CFR Part 2.790(b)(1). Written answers in response to verbal questions by an inspector on licensee forms that provide background information or do not provide the basis for an inspection finding, and are not retained by the inspector after leaving the site are not NRC records and therefore are not subject to public disclosure. Disposition of the licensee forms not retained by the inspector will be as directed by the licensee.

In addition, written interim answers given by licensee or vendor personnel to an inspector on a prepared form or any type of paper, including computer printouts, may (1) give the appearance that the inspector has helped the licensee to answer the question(s), (2) reflect the opinion of an individual staff member rather than the official position of the licensee or vendor, (3) give the appearance of the licensee or vendor doing the inspector's job and; (4) is not an acceptable substitute for obtaining first-hand information. First-hand information is normally obtained during inspection by direct observation, discussion, and interviews with appropriate licensee or vendor personnel.

04.05 NRC Documents, Records, or Information

- a. Consistent with NRC policies, procedures, and regulatory requirements, no portion of any inspection report shall be shown to or given to licensees, vendors, or any other group or person external to the NRC before formal issuance of the inspection report, without the explicit permission of the EDO. Discussions with licensees or vendors related to information contained in the inspection report should be limited to the observations made by the inspector during the inspection period and the inspector's preliminary assessment of the observations. If, contrary to this policy, inspection documentation is inadvertently or improperly released by the NRC, its contractors, or other government agencies, the EDO shall be promptly informed in writing of the release and the facts about the release. Corrective action shall be taken by the responsible office or region to retrieve the documentation and prevent recurrence of such a release.
- b. Where approved by regional management, a written list of significant issues identified during the course of inspection may be provided to the licensee or vendor by the lead

inspector or team leader at the exit meeting to facilitate the communication of inspection findings that require prompt corrective action. Documents prepared by inspectors for use in management meetings relative to inspection activities shall be reviewed and approved by responsible regional or headquarters managers for release and PDR requirements before distribution. See NRC MD 3.4, "Release of Information to the Public," for additional information.

- c. Significant safety or safeguards information shall be promptly and clearly communicated to responsible licensee or vendor management to obtain prompt evaluation and corrective action. There are few circumstances where this information cannot be relayed orally. Therefore, no draft inspection documents shall be given to the licensee or vendor unless the issue is so critical that verbal communication will not suffice to expeditiously correct the situation. If the release of draft inspection information is necessary, prior approval shall be obtained from the inspector's management, when possible. If time is critical to the release of draft inspection documents to prevent or mitigate an emergency or significant safety or safeguards event, the inspector shall release the documentation on his or her own authority and inform responsible NRC management of the release and the circumstances surrounding the release as soon as practical. Such draft inspection documents shall be attached to the inspection report.
- d. While onsite, inspectors should take care to ensure draft material or notes developed at licensee facilities is appropriately disposed of when no longer necessary. This precaution is to ensure pre-decisional or draft information is not inadvertently available for licensee review. Before using licensee facilities for disposal of documents or notes prepared by the inspector, the inspector should evaluate whether the information if made available to the licensee would interfere with the NRC's ability to effectively regulate the licensee or would be an embarrassment to the NRC or the inspector.
- e. Any time that a photograph, video tape, or sound recording is made by the NRC during an inspection or meeting with the licensee or vendor, it should be preannounced and all participants informed. If any individual involved objects to the making of a videotape or sound recording, or taking a specific photograph, the objection shall always be honored. A photograph, video tape, or sound recording made by an inspector during an inspection or a meeting with a licensee or vendor is considered an agency record, not a personal record of the inspector.

If a photograph, video tape, or sound recording is made during an inspection, it should be provided to the licensee or vendor for review to determine whether the videotape or sound recording contains any personal privacy, classified, proprietary, or safeguards information. If the NRC agrees with their determination, the video tape or sound recording

should be edited to delete any personal privacy, classified, proprietary, or safeguards information. If the NRC determines the personal privacy, classified, proprietary, or safeguards information is necessary to support the inspection finding it may be retained provided the controls established in NRC MD 3.53 "NRC Records Management Program," NRC MD 12.6 "NRC Sensitive Unclassified Information Security Program," NRC MD 12.2 "NRC Classified Information Security Program," and NRC Manual Chapter (MC) 0204 "Privacy Act," are implemented as appropriate. Photographs (and their negatives) determined to contain personal privacy, classified, proprietary, or safeguards information not necessary to support an inspection finding shall be destroyed.

04.06 Licensee Controlled Documents, Records, and Information

- a. Controlled copies of licensee or vendor records and documents may be reviewed at any time during inspection while on licensee- or vendor-owned property. This documentation is not to be removed from the licensee's or vendor's property or disposed of without the licensee's or vendor's permission. With the licensee's or vendor's permission, controlled copies of their records and documents may be reviewed offsite. Offsite locations include but are not limited to, NRC regional, headquarters, or resident inspector's office (considered NRC office space), an inspector's home, or motel rooms. Disposition of the licensee controlled information not retained by the inspector will be as directed by the licensee. It is important to note that while the licensee controlled documents or information are under the control of NRC staff (i.e., out of the licensee's controlled area and in the possession of NRC staff) they are subject to FOIA requests.
- b. Licensee controlled information provided by licensee or vendor personnel in response to questions by an inspector that are retained by the inspector after leaving the site as the basis of an inspection finding are NRC records subject to public disclosure. The inspector shall notify the licensee that the retained information will be considered an NRC record subject to public disclosure and provide them the opportunity to request withholding the information pursuant to the requirements of 10 CFR Part 2.790(b)(1).

The inspector shall only retain as an NRC record the information necessary to support the inspection finding. The question that should be answered when determining what information should be retained is: Can the NRC retrieve the document or information from the licensee for the foreseeable future? With this in mind, the inspector should evaluate what level of detail related to the licensee controlled information should be provided in the inspection report. Many times it will be acceptable to just identify the source of the information (procedure number, revision, title, etc.) in the inspection report. Other methods include the use of excerpts from the licensee controlled documents or directly

quoting the licensee's controlled document in the inspection report. In any case the inspection report should clearly identify the source of the licensee controlled information.

There may be some instances where documents or information provided to the inspector in response to questions are not contained in the licensee's document control system. Because they are not controlled by the licensee, they may not be retrievable from licensee in the future. In these cases, the information should be retained as an NRC record if it was used to support an inspection finding. The documents or records should be forwarded to the PDR either under a separate cover letter with the appropriate reference in the inspection report or attached to the inspection report. If the document or information only provides background information, it is not necessary to retain the document and may be disposed of by the inspector at the inspector's discretion. Information provided in response to questions by an inspector that provides background information or that does not provide the basis for an inspection finding are not to be retained by the inspector.

- c. Unlike the resident inspector's office, a room or office space provided onsite for the use of regional or headquarters inspectors is not considered an NRC office or office space. This room, and any licensee or vendor documents under review or used by inspectors in this room or office space, are the property of the licensee or vendor, not the NRC. However, in accordance with 10 CFR 50.70 and 10 CFR 70.55, the licensee or vendor is not permitted to go through documents or materials used by NRC inspectors in this room and is not privy to any conversations between NRC inspectors in this room. 10 CFR 40.62 and 10 CFR 30.5 do not provide for visual or acoustical privacy as do 10 CFR 50.70 and 70.55. Care is to be taken to safeguard all documents and inspector's notes left unattended during an inspector's absence, both in licensee offices provided for visiting inspectors or in the resident inspector's office even though the rooms may be locked.
- d. An NRC inspector may view the video screen of a licensee or vendor computer system that is used to followup on the inspector's questions. If the information contained in the computer system is considered controlled information by the licensee, a printout of this information provided to the inspector should be considered licensee controlled information.
- e. If the licensee or vendor requests that a document, or part, be withheld from public disclosure because it contains proprietary information, privacy or safeguards information, the licensee or vendor must file an application for withholding pursuant to 10 CFR 2.790(b)(1) with a supporting affidavit. The affidavits must be provided to the lead inspector or team leader by the licensee or vendor at the exit meeting or within 10 working days after the exit meeting.

- f. Copies shall be requested of licensee created photographs, video tapes, or sound recordings reviewed by NRC inspectors (i.e., video tapes made of inservice inspection of the reactor vessel internals) used to substantiate an inspection finding. The licensee should be requested to edit the video tape or sound recording to remove personal privacy, classified, proprietary, or safeguards information before providing the copy to the NRC unless the information is necessary to support the inspection finding. If the licensee copies provided to the NRC contain personal privacy, classified, proprietary, or safeguards information they shall be controlled in accordance with NRC MDs 3.53, 12.6, 12.2, and MC 0204.

Any photograph, videotape or sound recording used to substantiate inspection findings that does not contain personal privacy, classified, proprietary, or safeguards information is to be placed in the official files, processed through the NUDOCS and a copy sent to the PDR.

04.07 Disposition

- a. PDR Requirements. Subject to the exemptions in 10 CFR 2.790-(a), documents that are required to be placed in official record files, processed through NUDOCS, and placed in the PDR, include but are not limited to, those discussed below:
1. NRC inspection reports.
 2. Letters to the licensee or vendor regarding inspection activities.
 3. Any written list of documents or questions provided to a licensee or vendor that the inspectors need to prepare for the inspection or any list of documents that the inspectors would like to have available upon arriving at the site or on resuming an ongoing inspection after a week-long break. Such lists must be attached to the respective inspection report or placed in the PDR under separate cover.
 4. Any information or document sent to the NRC by mail or overnight express, with the exception of those sent directly to an NRC inspector as personal mail. (See NRC MDs 3.50, "Document Management" and 3.23, "Mail Management.")
 5. Any information or document sent by the licensee or vendor to the NRC by FAX, E-mail, internet, or other electronic transmission.
 6. Written responses, including computer printouts, from a licensee or vendor in response to questions asked by an inspector before or during an inspection retained by the inspector that provide the basis for an inspection finding (see section 04.06.b). The responses must be attached to the respective inspection report or sent to

the PDR under separate cover.

7. All licensee or vendor generated forms used by NRC inspectors to ask the licensee or vendor questions or request document and the associated licensee or vendor response regardless of whether or not the licensee considers the documents controlled. Such forms must be attached to the respective inspection report or placed in the PDR under separate cover.
 8. Those licensee or vendor generated forms that provide responses to inspector verbal questions retained by the inspector to substantiate inspection findings. Such forms must be attached to the respective inspection report or placed in the PDR under separate cover with the appropriate reference in the inspection report.
 9. Handouts provided to an NRC inspector by a licensee or vendor at an official management meeting that are retained by an inspector. These documents must be attached to the respective inspection report or sent to the PDR under separate cover.
 10. Any documentary information, relative to inspection activities, distributed by an NRC inspector at a management meeting with a licensee or vendor. Such written material must be approved by the inspector's management and either attached to the inspection report or sent to the PDR under separate cover.
 11. Any photograph, videotape, or recording made by or provided to an inspector used to substantiate inspection findings that does not contain personal privacy, classified, proprietary, or safeguards information.
 12. Where approved by regional management, a written list of significant issues identified during the course of inspection may be provided to the licensee or vendor by the lead inspector or team leader at the exit meeting to facilitate the communication of inspection findings that require prompt corrective action. Such lists must be attached to the respective inspection report.
- b. Freedom of Information Act Requirements. Documents that may be captured by a FOIA request include, but are not limited to, those listed below:
1. Facsimile transmissions (faxes) and electronic files on an individual's personal computer, such as E-mail and internet files and documents created on word processing software or other software programs.
 2. Licensee or vendor documents or records that are retained in an inspector's office, unless they fall into an exempt category.
 3. Inspector's notes, including licensee or vendor documents

annotated by an inspector, that are shared with or shown to others or commingled with official NRC records.

4. Copies of licensee or vendor documents in the possession of and under the control of an NRC inspector. These include, but are not limited to, controlled, uncontrolled, and draft copies of licensee or vendor records, procedures, and correspondence. They also include licensee or vendor documents "hand receipted" by a resident inspector and copies of licensee or vendor schedules and activities labeled "Information Copy" that are retained in the resident inspector's office.
5. Any documented conversation between a licensee or vendor and NRC inspector that is shared with others or commingled with agency records.
6. Official Field Notes made by materials inspectors. These are official NRC records that are not required to be placed in the PDR, but are required to be retained in the respective docket files.
7. Those photographs, videotapes or sound recordings, made by the NRC during an inspection but not used to substantiate inspection findings, are Agency records which do not have to be placed in the PDR. These are NRC records that are to be placed in the respective docket files and retained in accordance with established disposition schedules.

c. Documents Not Subject to PDR or FOIA Requirements

1. Documents or portions of documents that fall within the exempt categories of 10 CFR 2.790 and 10 CFR 9.13. These are to be placed in the appropriate docket file only.
2. Documents or information that inspectors examine during onsite inspection and oversight not used to support inspection findings. In conducting an onsite inspection, a substantial number of documents may have to be examined to provide background information regarding the facility or area(s) to be examined. Placing all such documents in the PDR would place an unnecessary burden on the agency and could hamper the necessary flow of background information from the licensee or vendor to the inspectors. For this reason, background material need not be placed in the PDR if it does not leave the licensee's or vendor's premises or is returned to the licensee or disposed of as directed by the licensee upon completion of the inspection. However, while the information is in the possession and control of NRC staff, the information is subject to FOIA requests.
3. Pictures or diagrams to explain a verbal answer. If a verbal question is asked by an inspector during onsite inspection and the licensee or vendor contact orally answering the question draws a picture or a diagram for

the inspector to see in order to explain the oral answer, the picture or diagram is considered background material and is not required to be placed in the PDR and is not subject to FOIA requirements so long as it is not being retained in an NRC space by the inspector at the time a FOIA request is received related to the information.

4. Inspector's notes. Inspector's notes may be made on paper or stored on a computer provided the electronically stored notes satisfy the criteria outlined below and, are maintained in a separate and distinct subdirectory or on removable storage medium containing only personal records. These include, but are not limited to the following:
 - (a) Inspector's notes listing needed documents and information verbally narrated to a licensee or vendor by telephone to prepare for an inspection or verbally narrated to the licensee or vendor during onsite inspection.
 - (b) Inspector's notes are considered personal records and are not required to be produced to answer a FOIA request as long as they (1) are only used as memory joggers, (2) are not distributed, shown or communicated verbatim to other individuals, including other inspectors, (3) are not required by NRC policies or procedures to be created or maintained (4) are not commingled or mixed with NRC records, and (5) would not be considered as agency records if requested under the Freedom of Information Act. Inspector's notes are retained or discarded at the inspector's sole discretion because the NRC has exercised no control or dominion over them. Personal records and NRC records may be stored in the same file cabinet or in an inspector's desk. However, personal records must not be kept in the same file or on the same computer disk as Agency records. If stored in separate binders in the same drawer or on the same computer disk as NRC records, such personal records may be considered to be commingled or mixed with NRC records and, as such become NRC records.
 - (c) Inspector's annotations on licensee or vendor documents, kept by an inspector, that are not shown or shared with others or commingled with NRC records. If an FOIA request comes in for such licensee documents, the documents are considered NRC records and must be surrendered in response to the FOIA request. However, the inspector's annotations may be removed from the document as they are considered inspector notes and are not captured by the FOIA.
 - (d) Inspector's notes containing preliminary inspection findings.

During team inspections, inspectors use their notes to discuss their findings at team meetings and discuss them with the team leader and other team members. However, they may not read the notes verbatim at such meetings. The team leader normally makes an integrated list of the significant inspection findings identified at team meetings; the findings are considered inspector's notes. As a courtesy, the team leader or lead inspector discusses them daily with licensee or vendor management so that there will be no surprises at the exit meeting. However, the written list of preliminary inspection findings is not to be shown to licensee or vendor management or other inspectors. If it is, it is subject to PDR and FOIA requirements.

04.08 Diagnostic Evaluation Teams (DETs) and Augmented Inspection Team (AITs). Documents and information obtained through evaluations by DETs and inspections by AITs are to be treated in the same manner as that required for routine inspection activities, (discussed above). Further guidance relative to AIT activities can be found in Inspection Manual Chapter 0325, "Augmented Inspection Team." Guidance relative to DETs may be found in NRC MD 8.7, "NRC Diagnostic Evaluation Program."

04.09 Incident Investigation Teams (IITs). Because of their sensitive nature, documentation for investigations performed by incident investigation teams is treated differently than that for routine inspection activities, DETs and AITs. Guidance relative to these investigations can be found in NRC MD 8.3, "Incident Investigation Program"; NUREG 1303, Revision 1, "Incident Investigation Manual" (Microfiche Address: 63923/003-151); and Office for Analysis and Evaluation of Operational Data (AEOD) Procedure No. 12, "Incident Investigation Team Administrative Requirements."

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42 U.S.C. 2011 et seq., "Atomic Energy Act of 1954."

5 U.S.C., 552, "Freedom of Information Act."

NRC Management Directive 3.1, "Freedom of Information Act."

NRC Management Directive 3.53, "NRC Records Management Program."

NRC Management Directive 3.50, "Document Management."

NRC Management Directive 12.2, "NRC Classified Information Security Plan."

NRC Management Directive 12.6, "NRC Security Manual Sensitive Unclassified Information Security Plan."

NRC Manual Chapter 0204, "Privacy Act."

NRC Manual Chapter 0514, "NRC Program for Management of Plant-Specific Backfitting of Nuclear Power Plants."

NRR Office Letter No. 106, "Release of NRC Draft or Pre-decisional Documents or Information."

END